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CORY SPENCER, DIANA MILENA
REED, and COASTAL PROTECTION
RANGERS, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

CORY SPENCER, an individual;
DIANA MILENA REED, an
individual; and COASTAL
PROTECTION RANGERS, INC., a
California non-profit public benefit
corporation,

CASE NO. 2:16-cv-02129-SJO (RAOx)

**DECLARATION OF ANDREW
WILLIS IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANTS CITY OF PALOS
VERDES ESTATES AND CHIEF OF
POLICE JEFF KEPLEY'S MOTION
FOR SUMMARY JUDGMENT OR IN**

Case No. 2:16-cv-02129-SJO (RAOx)

DECL. OF A. WILLIS ISO PLTFS.' OPPOSITION TO DEFTS. CITY OF PALOS VERDES ESTATES AND CHIEF
OF POLICE JEFF KEPLEY'S MOT. FOR SUMM. JUDGMENT OR, IN THE ALT., SUMM. ADJUD.

1 Plaintiffs,

2 v.

3 LUNADA BAY BOYS; THE
4 INDIVIDUAL MEMBERS OF THE
5 LUNADA BAY BOYS, including but
6 not limited to SANG LEE, BRANT
7 BLAKEMAN, ALAN JOHNSTON
8 AKA JALIAN JOHNSTON,
9 MICHAEL RAE PAPAYANS,
10 ANGELO FERRARA, FRANK
11 FERRARA, CHARLIE FERRARA,
12 and N. F.; CITY OF PALOS VERDES
13 ESTATES; CHIEF OF POLICE JEFF
14 KEPLEY, in his representative
15 capacity; and DOES 1-10,

16 Defendants.

THE ALTERNATIVE SUMMARY ADJUDICATION

Judge: Hon. S. James Otero
Date: August 21, 2017
Time: 10:00 a.m.
Crtrm.: 10C

Complaint Filed: March 29, 2016
Trial Date: November 7, 2017

15 I, ANDREW WILLIS, declare as follows:

16 1. I am the Southern California Enforcement Supervisor for the California
17 Coastal Commission. As such, I oversee Coastal Act enforcement for the portion of
18 the Coastal Zone, as that phrase is defined in Public Resources Code section 30103,
19 that extends from the northern Santa Barbara County line south to the international
20 border. I have worked in enforcement for the California Coastal Commission since
21 November 1, 2004. I have personal knowledge of the facts set forth herein, except
22 as to those stated on information and belief and, as to those, I am informed and
23 believe them to be true. If called as a witness, I could and would competently testify
24 to the matters stated herein.

25 2. As background, as noted above, my employer is the California Coastal
26 Commission (the "Commission"). It is my understanding that its predecessor was
27 established by voter initiative in 1972 (Proposition 20), with a sunset provision, and
28 the Commission itself was established and made permanent by the Legislature

1 through adoption of the California Coastal Act of 1976, Cal. Pub. Res. Code
 2 §§ 30000 *et seq.*. The Commission's express mission is to protect and enhance
 3 California's coast and ocean for present and future generations.¹ It does so through
 4 careful planning and regulation of development, rigorous use of science, facilitation
 5 of strong public participation, education, effective intergovernmental coordination,
 6 and enforcement efforts.

7 3. While Commission enforcement staff like me endeavor to actively
 8 monitor activities within California's coastal zone insofar as possible, we have
 9 limited staffing, a limited budget, and very limited resources. In fact, to cover more
 10 than 1,250 shoreline miles, investigate and pursue violations administratively, and
 11 support enforcement pursued in litigation, there are just 14 enforcement personnel
 12 statewide. The enforcement team is supported by a single in-house lawyer who also
 13 represents other divisions of the Commission and is represented in litigation by the
 14 California Attorney General's Office. Thus, given our limited resources that must
 15 be used to cover the Coastal Zone of the entire State of California, cooperating
 16 coastal access organizations and private citizen lawsuits that seek to enforce coastal
 17 access laws, or that otherwise support open access to the state's beaches, can also
 18 play an important role in coastal protection in California. Here, while counsel in the
 19 *Spencer* matter do not represent the Commission, as the Commission's Southern
 20 California Enforcement Supervisor, I continue to monitor the litigation, and I am
 21 supportive of Plaintiffs' efforts, because of the value assigned to public coastal
 22 access by the State, including Plaintiffs' effort to make Palos Verdes Estates beaches
 23 more accessible to all people, regardless of where they live or their income level. I
 24 am also supportive of Plaintiffs' efforts because my office has limited resources to

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 26
 27 ¹ See the Coastal Commission's mission statement at
 28 <https://www.coastal.ca.gov/howeare.html>.

1 quickly resolve every violation of law related to access to the coast, and the
 2 Commission enforcement staff is generally limited to enforcement of the Coastal
 3 Act, while Plaintiffs' causes of action are more diverse, and these other ways to
 4 protect and ensure access to the States' coastal resources can provide an important
 5 complement to my role that furthers the Commission's objectives. Here, the overall
 6 situation in the City of Palos Verdes Estates ("City") still requires change and
 7 improvements to ensure public access to Lunada Bay is available to all. More
 8 specifically, I am not satisfied that the City's efforts to address the illegal
 9 exclusionary activity on a publicly owned beach has fully remedied the situation,
 10 and steps remain that the City should take to improve access to Lunada Bay.

11 4. My office has been in communication with counsel in the *Spencer*
 12 matter. As the Southern California Enforcement Supervisor for the Commission,
 13 given the potential for ongoing preclusion of coastal access at Lunada Bay, I believe
 14 the *Spencer* litigation presents important issues under the law. Moreover, Plaintiffs'
 15 efforts may continue to work as a catalyst to encourage the City to survey its options
 16 to ensure compliance with respect to laws that support access to California's coast.
 17 Without judicial assistance, I am of the opinion that the potential remains that
 18 beachgoers are being denied access to Lunada Bay in violation of the law, and, thus,
 19 are continuing to suffer irreparable harm.

20 5. The Coastal Commission supports equal justice requirements that
 21 promote equal access to the beach and coastal zones regardless of where a person
 22 lives, and that prohibit discrimination based on income, wealth, race, color, national
 23 origin, and other protected categories.² My staff have received complaints about
 24 localism at Lunada Bay, and that beachgoers are deterred from visiting out of fear
 25

26
 27 ² See for instance section 30013 (Environmental Justice) of the California Public
 28 Resources Code.

1 for safety to themselves, their families and friends, and their personal property.

2 These complaints cause the Commission grave concern.

3 6. In my job as the Southern California Enforcement Supervisor for the
4 Commission, I support efforts that (a) provide coastal experiences to lower-income
5 or other underserved populations, (b) increase the number of people visiting the
6 coast, including people from inland and poor communities, (c) improve barrier-free
7 access to persons with disabilities, (d) provide valuable recreational, environmental,
8 cultural or historical learning experiences, (e) mitigate discriminatory impact to
9 beachgoers, and ensure access to the coast without discrimination based on income,
10 wealth, race, ethnicity, sexual orientation, culture, or other protected categories;
11 (f) increase stewardship of coastal resources, and (g) enhance the public's coastal
12 experience in a way that does not currently exist. In this effort, in addition to
13 working with non-profit and other coastal advocacy groups, the Coastal
14 Commission occasionally teams up with the California State Coastal Conservancy,
15 and the State Lands Commission.

16 7. In my work as Southern California Enforcement Supervisor for the
17 Commission, I understand that the State Coastal Conservancy commissioned
18 Probolsky Research on Public Policy early this year to conduct a survey of 1,200
19 California residents, which survey was conducted between March 23 and March 29,
20 2017. This research is valuable to my work for the Coastal Commission. This
21 survey found that 71.1% of Californians from inland areas state they wish they
22 could visit the coast more often. Attached here to as Exhibit 1 is a true and correct
23 copy of what I understand to be the California State Coastal Conservancy Statewide
24 Survey.

25 8. In my job as the Southern California Enforcement Supervisor for the
26 California Coastal Commission, I have reviewed State Lands Commission and
27 Coastal Commission records, and I understand from those records that Lunada Bay
28 is public trust land legislatively granted from the State of California to the City of

1 Palos Verdes Estates. More specifically, the State of California granted the City of
 2 Palos Verdes Estates a sovereign tide and submerged lands trust in 1963, which was
 3 amended in 1968. This grant requires and was conditioned upon the granted land to
 4 be used for statewide interests, including for "preservation of areas...for activities
 5 such as surfing and other water sports, and the natural beauty and biological
 6 resources and activities related thereto..." (Chap. 1975, Stats. 1963; Chap. 316,
 7 Stats. 1968) Further, the City cannot at any time grant, convey, give or alienate
 8 such lands, or any part thereof, to any individual, firm or corporation for any
 9 purposes whatever....." And, "[i]n the management, conduct, operation and control
 10 of said lands or any improvements, betterments, or structures thereon, the city or its
 11 successors shall make no discrimination in rates, tolls or charges for any use or
 12 service in connection therewith." And, the State "reserve[s] to the people of
 13 California the right to fish in the waters on said lands with the right of convenient
 14 access to said water over said lands for said purpose." Attached hereto as Exhibits 2
 15 and 3 are true and correct copies of Statutes of 1963 relating to tide and submerged
 16 lands granted in trust to the City of Palos Verdes Estates, and the 1968 amendment.

17 9. Upon information and belief, the "Master Plan for Palos Verdes Estates
 18 Shoreline Preserve" was adopted by the City on March 10, 1970. The Master Plan
 19 recognizes certain recreational opportunities on the Palos Verdes Estates coastline,
 20 including surfing, scuba diving, swimming, and boating. Further, it recommended
 21 delineation and improvement of access trails to encourage the activities while
 22 promoting public safety – and identified Lunada Bay as being an area where
 23 reasonably safe trails should be improved and provided. And Lunada Bay was to be
 24 considered as an improved viewing site. Attached hereto as Exhibit 4 is a true and
 25 correct cope of the City of Palos Verdes Estates Shoreline Preserve Master Plan.

26 10. Upon information and belief, after the State's substantial-compliance
 27 investigation, the State confirmed that the grant to the City including Lunada Bay
 28 was to be used "...for purposes in which there is a general statewide interest."

1 Attached hereto as Exhibit 5 is a Staff Report from the State Lands Commission
 2 dated 8/20/1981. Also, according to a 1991 Coastal Commission Staff Report,
 3 "[t]he city has provided the general location of 16 accessways in the Shoreline
 4 Preserve Master Plan (Exhibits 3-4)". But the City was to "adopt a policy that
 5 supports appropriate public action to retain and improve...the City's accessways
 6 including the erection of signs to inform the public of the existence and nature of the
 7 Shoreline Preserve and locations of improved public accessways to the shore..."
 8 Attached hereto as Exhibit 6 is a July 1, 1991 Staff report to the California Coastal
 9 Commission on the Palos Verdes Estates' Local Coastal Program (LCP), which
 10 includes a Land Use Plan (LUP) and Local Implementation Program (LIP).

11 11. In addition to the Coastal Act, the California Constitution provides that
 12 no individual, partnership or corporation possessing frontage or tidal lands of any
 13 navigable water in the State shall be permitted to exclude the right of way to such
 14 waterway whenever it is required for any public purpose and that the State shall
 15 enact laws that give the "most liberal construction" to this provision so that "access
 16 to navigable waters of this State shall be always attainable for the people thereof."
 17 Attached here to as Exhibit 7 is a true and correct copy of "Article X Water," Sec. 4,
 18 of the California Constitution.

19 12. As noted above, my office and staff have received complaints that
 20 locals at Lunada Bay are deterring visitors to this area of the California coast, which
 21 causes the Coastal Commission substantial concern. Moreover, along with my staff,
 22 I have come to the conclusion that Lunada Bay is underutilized by surfers and other
 23 beachgoers compared to similar prized areas of the California coastal zone.

24 13. The Coastal Commission has relied on reports prepared by Dr. Philip
 25 King at various times related to issues of beach valuation and beach counts. Further,
 26 I have reviewed Dr. Philip King's declarations (Doc. Nos. 182-4 and 216-1) in
 27 support of the Plaintiffs' motion to support class certification. In terms of Dr. King
 28 using the Trestles coastal area in his comparator analysis, Trestles is within my

1 jurisdiction. I know the Trestles area coastal zone well, including from in-person
2 visits: Trestles is located at the northern end of Camp Pendleton Marine Base in San
3 Diego County abutting the City of San Clemente at the Orange County border, and
4 is a long beach with several distinct areas/breaks – from north to south these are
5 Cottons, Upper Trestles, Barbwires, Lower Trestles, Middles and Church. It is
6 common for surfers to report that they have driven long distances, or even flown
7 from other countries, to surf and visit Trestles areas/breaks.

8 14. The Trestles areas/breaks regularly have a large number of surfers
9 using them, and Cottons, Upper Trestles, and Lower Trestles are typically the most
10 heavily used. In reviewing Dr. King's declarations, in my experience I concur that
11 the Trestles areas/breaks may receive up to about 330,000 surf trip visits annually. I
12 understand this number comes from a study that Dr. Chad Nelson conducted, who
13 cites to annual attendance records generated by State Park lifeguards for this
14 number. <https://www.surfrider.org/coastal-blog/entry/the-economics-of-surfing>
15 [ftp://reef.csc.noaa.gov/pub/socioeconomic/NSMS/California/Literature/Nelsen_200](ftp://reef.csc.noaa.gov/pub/socioeconomic/NSMS/California/Literature/Nelsen_2007.pdf)
16 [7.pdf](ftp://reef.csc.noaa.gov/pub/socioeconomic/NSMS/California/Literature/Nelsen_2007.pdf). In addition to travel, to use the Trestles areas/breaks, a surfer or other
17 beachgoer is required to make a long walk or bike ride from the parking area – a
18 majority of which requires an annual \$195 State Park's parking pass or payment of
19 \$15 a day to use.

20 15. While Lunada Bay is a world class wave like Trestles, unlike Trestles,
21 Lunada Bay has ample free nearby public parking. And unlike Trestles, Lunada
22 Bay is not bordered by a military base, but is fully surrounded by a more densely
23 populated area. Thus, in consultation with my staff, we concur with Dr. King that
24 absent the issue of localism, Lunada Bay should have on average between 60-75
25 surfers per day using it during periods of good waves and a commensurate number
26 of surfers using it annually. Our experience is that Lunada Bay has far fewer
27 visitors than this, and because of localism, far fewer than we would otherwise
28 expect.

1 I declare under penalty of perjury under the laws of the United States of
2 America that the foregoing is true and correct.

3 Executed on this 25th day of July, 2017, at Long Beach,
4 California.

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6 
7 ANDREW WILLIS
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